

AMENDED IN SENATE MARCH 20, 2017

**SENATE BILL**

**No. 497**

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**Introduced by Senator Portantino**  
(Coauthor: Assembly Member Gipson)

February 16, 2017

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An act to amend Sections 26835, 27535, 27540, and 27590 of the Penal Code, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

SB 497, as amended, Portantino. Firearms: transfers.

Existing law, subject to exceptions, prohibits a person from making more than one application to purchase a handgun within any 30-day period. Violation of that prohibition is a crime. Existing law prohibits a firearms dealer from delivering a handgun to a person whenever the dealer is notified by the Department of Justice that within the preceding 30-day period the purchaser has made another application to purchase a handgun that does not fall within an exception to the 30-day prohibition. A violation of that delivery prohibition by the dealer is a crime.

This bill would make the 30-day prohibition and the dealer delivery prohibition described above applicable to all types of firearms. The bill would also except from that prohibition the purchase of a firearm, other than a handgun, by a person who possesses a valid, unexpired hunting license, and the acquisition of a firearm, other than a handgun, at specified charity fundraising events. The bill would make additional conforming changes and technical, nonsubstantive changes.

By expanding the scope of existing crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 26835 of the Penal Code is amended to  
2 read:

3 26835. A licensee shall conspicuously post within the licensed  
4 premises the following warnings in block letters not less than one  
5 inch in height:

6  
7 (a) "IF YOU KEEP A LOADED FIREARM WITHIN ANY  
8 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
9 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND  
10 USES IT, RESULTING IN INJURY OR DEATH, OR CARRIES  
11 IT TO A PUBLIC PLACE, YOU MAY BE GUILTY OF A  
12 MISDEMEANOR OR A FELONY UNLESS YOU STORED  
13 THE FIREARM IN A LOCKED CONTAINER OR LOCKED  
14 THE FIREARM WITH A LOCKING DEVICE, TO KEEP IT  
15 FROM TEMPORARILY FUNCTIONING."

16 (b) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER  
17 FIREARM CAPABLE OF BEING CONCEALED UPON THE  
18 PERSON, WITHIN ANY PREMISES UNDER YOUR CUSTODY  
19 OR CONTROL, AND A PERSON UNDER 18 YEARS OF AGE  
20 GAINS ACCESS TO THE FIREARM, AND CARRIES IT  
21 OFF-PREMISES, YOU MAY BE GUILTY OF A  
22 MISDEMEANOR, UNLESS YOU STORED THE FIREARM IN  
23 A LOCKED CONTAINER, OR LOCKED THE FIREARM WITH  
24 A LOCKING DEVICE, TO KEEP IT FROM TEMPORARILY  
25 FUNCTIONING."

26 (c) "IF YOU KEEP ANY FIREARM WITHIN ANY  
27 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
28 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO  
29 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A  
30 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY BE

1 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP  
2 TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS YOU  
3 STORED THE FIREARM IN A LOCKED CONTAINER, OR  
4 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

5 (d) “IF YOU NEGLIGENTLY STORE OR LEAVE A  
6 LOADED FIREARM WITHIN ANY PREMISES UNDER YOUR  
7 CUSTODY OR CONTROL, WHERE A PERSON UNDER 18  
8 YEARS OF AGE IS LIKELY TO ACCESS IT, YOU MAY BE  
9 GUILTY OF A MISDEMEANOR, INCLUDING A FINE OF UP  
10 TO ONE THOUSAND DOLLARS (\$1,000), UNLESS YOU  
11 STORED THE FIREARM IN A LOCKED CONTAINER, OR  
12 LOCKED THE FIREARM WITH A LOCKING DEVICE.”

13 (e) “DISCHARGING FIREARMS IN POORLY VENTILATED  
14 AREAS, CLEANING FIREARMS, OR HANDLING  
15 AMMUNITION MAY RESULT IN EXPOSURE TO LEAD, A  
16 SUBSTANCE KNOWN TO CAUSE BIRTH DEFECTS,  
17 REPRODUCTIVE HARM, AND OTHER SERIOUS PHYSICAL  
18 INJURY. HAVE ADEQUATE VENTILATION AT ALL TIMES.  
19 WASH HANDS THOROUGHLY AFTER EXPOSURE.”

20 (f) “FEDERAL REGULATIONS PROVIDE THAT IF YOU  
21 DO NOT TAKE PHYSICAL POSSESSION OF THE FIREARM  
22 THAT YOU ARE ACQUIRING OWNERSHIP OF WITHIN 30  
23 DAYS AFTER YOU COMPLETE THE INITIAL  
24 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE  
25 TO GO THROUGH THE BACKGROUND CHECK PROCESS  
26 A SECOND TIME IN ORDER TO TAKE PHYSICAL  
27 POSSESSION OF THAT FIREARM.”

28 (g) “NO PERSON SHALL MAKE AN APPLICATION TO  
29 PURCHASE MORE THAN ONE FIREARM WITHIN ANY  
30 30-DAY PERIOD AND NO DELIVERY SHALL BE MADE TO  
31 ANY PERSON WHO HAS MADE AN APPLICATION TO  
32 PURCHASE MORE THAN ONE FIREARM WITHIN ANY  
33 30-DAY PERIOD.”

34 (h) “IF A FIREARM YOU OWN OR POSSESS IS LOST OR  
35 STOLEN, YOU MUST REPORT THE LOSS OR THEFT TO A  
36 LOCAL LAW ENFORCEMENT AGENCY WHERE THE LOSS  
37 OR THEFT OCCURRED WITHIN FIVE DAYS OF THE TIME  
38 YOU KNEW OR REASONABLY SHOULD HAVE KNOWN  
39 THAT THE FIREARM HAD BEEN LOST OR STOLEN.”

40

1 SEC. 2. Section 27535 of the Penal Code is amended to read:

2 27535. (a) A person shall not make an application to purchase  
3 more than one firearm within any 30-day period.

4 (b) Subdivision (a) does not apply to any of the following:

5 (1) Any law enforcement agency.

6 (2) Any agency duly authorized to perform law enforcement  
7 duties.

8 (3) Any state or local correctional facility.

9 (4) Any private security company licensed to do business in  
10 California.

11 (5) Any person who is properly identified as a full-time paid  
12 peace officer, as defined in Chapter 4.5 (commencing with Section  
13 830) of Title 3 of Part 2, and who is authorized to, and does carry  
14 a firearm during the course and scope of employment as a peace  
15 officer.

16 (6) Any motion picture, television, or video production company  
17 or entertainment or theatrical company whose production by its  
18 nature involves the use of a firearm.

19 (7) Any person who may, pursuant to Article 2 (commencing  
20 with Section 27600), Article 3 (commencing with Section 27650),  
21 or Article 4 (commencing with Section 27700), claim an exemption  
22 from the waiting period set forth in Section 27540.

23 (8) Any transaction conducted through a licensed firearms dealer  
24 pursuant to Chapter 5 (commencing with Section 28050).

25 (9) Any person who is licensed as a collector pursuant to Chapter  
26 44 (commencing with Section 921) of Title 18 of the United States  
27 Code and the regulations issued pursuant thereto, and has a current  
28 certificate of eligibility issued by the Department of Justice  
29 pursuant to Article 1 (commencing with Section 26700) of Chapter  
30 2.

31 (10) The exchange of a firearm where the dealer purchased that  
32 firearm from the person seeking the exchange within the 30-day  
33 period immediately preceding the date of exchange or replacement.

34 (11) The replacement of a firearm when the person's firearm  
35 was lost or stolen, and the person reported that firearm lost or  
36 stolen prior to the completion of the application to purchase to any  
37 local law enforcement agency of the city, county, or city and county  
38 in which the person resides.

39 (12) The return of any firearm to its owner.

1 (13) A community college that is certified by the Commission  
2 on Peace Officer Standards and Training to present the law  
3 enforcement academy basic course or other commission-certified  
4 law enforcement training.

5 (14) The purchase of a firearm, other than a handgun, by a  
6 person who possesses a valid, unexpired hunting license issued by  
7 the Department of Fish and Wildlife.

8 (15) The acquisition of a firearm, other than a handgun, at an  
9 auction or similar event conducted by a nonprofit public benefit  
10 or mutual benefit corporation to fund the activities of that  
11 corporation or local chapters of that corporation.

12 *(c) For the purposes of paragraphs (14) and (15) of subdivision*  
13 *(b), the frame or receiver of a firearm is a handgun unless the*  
14 *frame or receiver listed in the application to purchase and*  
15 *delivered to the recipient is equipped with, is attached to, or is*  
16 *concurrently accompanied by, a barrel of 16 inches or greater in*  
17 *length.*

18 SEC. 3. Section 27540 of the Penal Code is amended to read:

19 27540. A dealer, whether or not acting pursuant to Chapter 5  
20 (commencing with Section 28050), shall not deliver a firearm to  
21 a person, as follows:

22 (a) Within 10 days of the application to purchase, or, after notice  
23 by the department pursuant to Section 28220, within 10 days of  
24 the submission to the department of any correction to the  
25 application, or within 10 days of the submission to the department  
26 of any fee required pursuant to Section 28225, whichever is later.

27 (b) Unless unloaded and securely wrapped or unloaded and in  
28 a locked container.

29 (c) Unless the purchaser, transferee, or person being loaned the  
30 firearm presents clear evidence of the person's identity and age to  
31 the dealer.

32 (d) Whenever the dealer is notified by the Department of Justice  
33 that the person is prohibited by state or federal law from possessing,  
34 receiving, owning, or purchasing a firearm.

35 (e) A firearm, including a handgun, shall not be delivered unless  
36 the purchaser, transferee, or person being loaned the firearm  
37 presents a firearm safety certificate to the dealer, except that in the  
38 case of a handgun, an unexpired handgun safety certificate may  
39 be presented.

1 (f) A firearm shall not be delivered whenever the dealer is  
2 notified by the Department of Justice that within the preceding  
3 30-day period the purchaser has made another application to  
4 purchase a firearm and that the previous application to purchase  
5 did not involve any of the entities or circumstances specified in  
6 subdivision (b) of Section 27535.

7 SEC. 4. Section 27590 of the Penal Code is amended to read:  
8 27590. (a) Except as provided in subdivision (b), (c), or (e),  
9 a violation of this article is a misdemeanor.

10 (b) If any of the following circumstances apply, a violation of  
11 this article is punishable by imprisonment pursuant to subdivision  
12 (h) of Section 1170 for two, three, or four years:

13 (1) If the violation is of subdivision (a) of Section 27500.

14 (2) If the defendant has a prior conviction of violating the  
15 provisions, other than Section 27535, Section 27560 involving a  
16 firearm that is not a handgun, or Section 27565 involving a firearm  
17 that is not a handgun, of this article or former Section 12100 of  
18 this code, as Section 12100 read at any time from when it was  
19 enacted by Section 3 of Chapter 1386 of the Statutes of 1988 to  
20 when it was repealed by Section 18 of Chapter 23 of the Statutes  
21 of 1994, or Section 8101 of the Welfare and Institutions Code.

22 (3) If the defendant has a prior conviction of violating any  
23 offense specified in Section 29905 or of a violation of Section  
24 32625 or 33410, or of former Section 12560, as that section read  
25 at any time from when it was enacted by Section 4 of Chapter 931  
26 of the Statutes of 1965 to when it was repealed by Section 14 of  
27 Chapter 9 of the Statutes of 1990, or of any provision listed in  
28 Section 16590.

29 (4) If the defendant is in a prohibited class described in Chapter  
30 2 (commencing with Section 29800) or Chapter 3 (commencing  
31 with Section 29900) of Division 9 of this title, or Section 8100 or  
32 8103 of the Welfare and Institutions Code.

33 (5) A violation of this article by a person who actively  
34 participates in a “criminal street gang” as defined in Section 186.22.

35 (6) A violation of Section 27510 involving the delivery of any  
36 firearm to a person who the dealer knows, or should know, is a  
37 minor.

38 (c) If any of the following circumstances apply, a violation of  
39 this article shall be punished by imprisonment in a county jail not  
40 exceeding one year or pursuant to subdivision (h) of Section 1170,

1 or by a fine not to exceed one thousand dollars (\$1,000), or by  
2 both that fine and imprisonment:

3 (1) A violation of Section 27515, 27520, or subdivision (b) of  
4 Section 27500.

5 (2) A violation of Section 27505 involving the sale, loan, or  
6 transfer of a handgun to a minor.

7 (3) A violation of Section 27510 involving the delivery of a  
8 handgun.

9 (4) A violation of subdivision (a), (c), (d), (e), or (f) of Section  
10 27540 involving a handgun.

11 (5) A violation of Section 27545 involving a handgun.

12 (6) A violation of Section 27550.

13 (7) A violation of Section 27585 involving a handgun.

14 (d) If both of the following circumstances apply, an additional  
15 term of imprisonment pursuant to subdivision (h) of Section 1170  
16 for one, two, or three years shall be imposed in addition and  
17 consecutive to the sentence prescribed:

18 (1) A violation of Section 27510 or subdivision (b) of Section  
19 27500.

20 (2) The firearm transferred in violation of Section 27510 or  
21 subdivision (b) of Section 27500 is used in the subsequent  
22 commission of a felony for which a conviction is obtained and the  
23 prescribed sentence is imposed.

24 (e) (1) A first violation of Section 27535 is an infraction  
25 punishable by a fine of fifty dollars (\$50).

26 (2) A second violation of Section 27535 is an infraction  
27 punishable by a fine of one hundred dollars (\$100).

28 (3) A third or subsequent violation of Section 27535 is a  
29 misdemeanor.

30 (4) For purposes of this subdivision each application to purchase  
31 a firearm in violation of Section 27535 shall be deemed a separate  
32 offense.

33 SEC. 5. No reimbursement is required by this act pursuant to  
34 Section 6 of Article XIII B of the California Constitution because  
35 the only costs that may be incurred by a local agency or school  
36 district will be incurred because this act creates a new crime or  
37 infraction, eliminates a crime or infraction, or changes the penalty  
38 for a crime or infraction, within the meaning of Section 17556 of  
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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